

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SILVON S. SIMMONS,

Plaintiff,

**NOTICE OF MOTION  
TO COMPEL DISCOVERY**

vs.

**17-CV-6176-FPG-MWP**

JOSEPH M. FERRIGNO, II, SAMUEL  
GIANCURSIO, MARK WIATER,  
CHRISTOPHER MUSCATO, ROBERT  
WETZEL, MICHAEL L. CIMINELLI,  
JOHN DOES 1-20, CITY OF ROCHESTER,  
SHOTSPOTTER, INC., SST, INC.,  
JOHN DOES 21-30 and PAUL C. GREENE,

Defendants.

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PLEASE TAKE NOTICE that upon the annexed Affidavit of Charles F. Burkwit, duly sworn to the 3<sup>rd</sup> day of September, 2020, and upon all the pleadings and proceedings heretofore had herein, the undersigned will move this Court before the Honorable Marian W. Payson, at the United States Courthouse, 100 State Street, Rochester, New York at a Motion Term hereof, on the \_\_\_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon of that day or as soon thereafter as counsel may be heard, for an order pursuant to FRCP 37 compelling Defendants Joseph M. Ferrigno, II, Samuel Giancursio, Mark Wiater, Christopher Muscat, Robert Wetzel, Michael L. Ciminelli, John Does 1-20 and City of Rochester to produce complete materials responsive to Plaintiff's First Request For Production of Documents, Electronically Stored Information and

Tangible Things, dated January 27, 2020, awarding reasonable expenses incurred and attorney's fees in making this motion pursuant to FRCP 37(a)(5), issuing a Second Amended Scheduling Order extending the Amended Scheduling Order (Document 53) deadlines by 120 days after the return date of this motion pursuant to FRCP 16 (b)(4) and for such other and further relief as the Court may deem just and proper; and

PLEASE TAKE FURTHER NOTICE, that pursuant to Rule 7(a)(1) of the Local Rules of this Court, the Plaintiff intends to file and serve reply papers and therefore, pursuant to Rule 7(b)(2)(B), Defendants are required to serve responding papers, if any, at least seven (7) days prior to the return date of this motion.

Dated: September 3, 2020

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